

Senate File 459 - Reprinted

SENATE FILE 459
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 297)

(As Amended and Passed by the Senate March 25, 2015)

A BILL FOR

1 An Act concerning employment of and merit system protection
2 for administrative law judges, workers' compensation
3 commissioners, and the administrator of the administrative
4 hearings division of the department of inspections and
5 appeals.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.412, subsection 11, Code 2015, is
2 amended to read as follows:

3 11. Professional employees under the supervision of the
4 attorney general, the state public defender, the secretary
5 of state, the auditor of state, the treasurer of state, and
6 the public employment relations board. However, employees of
7 the consumer advocate division of the department of justice,
8 other than the consumer advocate, and administrative law judges
9 appointed or employed by the public employment relations board,
10 are subject to the merit system.

11 Sec. 2. Section 8A.415, subsection 1, paragraph b, Code
12 2015, is amended to read as follows:

13 b. If not satisfied, the employee may, within thirty
14 calendar days following the director's response, file an
15 appeal with the public employment relations board. The
16 hearing shall be conducted in accordance with the rules of the
17 public employment relations board and the Iowa administrative
18 procedure Act, chapter 17A. Decisions rendered shall be based
19 upon a standard of substantial compliance with this subchapter
20 and the rules of the department. Decisions by the public
21 employment relations board constitute final agency action.
22 However, if the employee is an administrative law judge
23 appointed or employed by the public employment relations board,
24 the employee's appeal shall be heard by an administrative law
25 judge employed by the administrative hearings division of the
26 department of inspections and appeals in accordance with the
27 provisions of section 10A.801, whose decision shall constitute
28 final agency action.

29 Sec. 3. Section 8A.415, subsection 2, paragraph b, Code
30 2015, is amended to read as follows:

31 b. If not satisfied, the employee may, within thirty
32 calendar days following the director's response, file an appeal
33 with the public employment relations board. The employee has
34 the right to a hearing closed to the public, unless a public
35 hearing is requested by the employee. The hearing shall

1 otherwise be conducted in accordance with the rules of the
 2 public employment relations board and the Iowa administrative
 3 procedure Act, chapter 17A. If the public employment relations
 4 board finds that the action taken by the appointing authority
 5 was for political, religious, racial, national origin, sex,
 6 age, or other reasons not constituting just cause, the employee
 7 may be reinstated without loss of pay or benefits for the
 8 elapsed period, or the public employment relations board may
 9 provide other appropriate remedies. Decisions by the public
 10 employment relations board constitute final agency action.
 11 However, if the employee is an administrative law judge
 12 appointed or employed by the public employment relations board,
 13 the employee's appeal shall be heard by an administrative law
 14 judge employed by the administrative hearings division of the
 15 department of inspections and appeals in accordance with the
 16 provisions of section 10A.801, whose decision shall constitute
 17 final agency action.

18 Sec. 4. Section 10A.801, subsection 3, paragraph a, Code
 19 2015, is amended to read as follows:

20 a. The department shall employ a sufficient number of
 21 administrative law judges to conduct proceedings for which
 22 agencies are required, by section 17A.11 or any other provision
 23 of law, to use an administrative law judge employed by the
 24 division. An administrative law judge employed by the division
 25 shall not perform duties inconsistent with the judge's duties
 26 and responsibilities as an administrative law judge and shall
 27 be located in an office that is separated from the offices of
 28 the agencies for which that person acts as a presiding officer.
 29 ~~Administrative~~ The administrator and all administrative law
 30 judges shall be covered by the merit system provisions of
 31 chapter 8A, subchapter IV.

32 Sec. 5. Section 86.2, subsection 1, paragraphs a and b, Code
 33 2015, are amended to read as follows:

34 a. Chief deputy workers' compensation commissioners for
 35 whose acts the commissioner is responsible, ~~who are exempt from~~

1 who shall be appointed and serve pursuant to the merit system
2 provisions of chapter 8A, subchapter IV, and who shall serve at
3 the pleasure of the commissioner unless the commissioners are
4 otherwise covered by a collective bargaining agreement.

5 *b.* Deputy workers' compensation commissioners for whose
6 acts the commissioner is responsible ~~and who shall serve at the~~
7 ~~pleasure of the commissioner~~ be appointed and serve pursuant
8 to the merit system provisions of chapter 8A, subchapter IV,
9 unless the commissioners are otherwise covered by a collective
10 bargaining agreement.

11 Sec. 6. Section 96.6, subsection 3, paragraph b, Code 2015,
12 is amended to read as follows:

13 *b.* Appeals from the initial determination shall be heard
14 by an administrative law judge employed by the department who
15 shall be covered by the merit system provisions of chapter
16 8A, subchapter IV, unless the administrative law judge is
17 otherwise covered by a collective bargaining agreement. An
18 administrative law judge's decision may be appealed by any
19 party to the employment appeal board created in section
20 10A.601. The decision of the appeal board is final agency
21 action and an appeal of the decision shall be made directly to
22 the district court.